

**ASSEMBLY BILL**

**No. 1574**

---

**Introduced by Assembly Member Galgiani**

February 1, 2012

---

An act to amend Section 13975 of the Government Code, and to repeal and add Division 19.5 (commencing with Section 185000) of the Public Utilities Code, relating to high-speed rail.

LEGISLATIVE COUNSEL'S DIGEST

AB 1574, as introduced, Galgiani. High-speed rail.

Existing law, the California High-Speed Rail Act, creates the High-Speed Rail Authority with 9 members to develop and implement a high-speed train system in the state, with specified powers and duties. Existing law, pursuant to that act, specifies the powers and duties of the authority, which include entering into contracts with private and public entities for the design, construction, and operation of high-speed trains, the acquisition of rights-of-way through purchase or eminent domain, and the relocation of highways and utilities, among other things. Existing law requires the authority to adopt and submit to the Legislature, every 2 years, a business plan. Existing law authorizes the authority to appoint an executive director, and authorizes the Governor to appoint up to 6 additional persons exempt from civil service. Existing law provides for the authority to establish an independent peer review group. Existing law, the Safe, Reliable High-Speed Passenger Train Bond Act for the 21st Century, approved by the voters as Proposition 1A at the November 4, 2008, general election, provides for the issuance of \$9.95 billion in general obligation bonds for high-speed rail and related purposes.

This bill would repeal all of the provisions of the California High-Speed Rail Act. The bill would enact a new California High-Speed Rail Act. The bill would continue the High-Speed Rail Authority in existence with limited responsibilities and would place the authority within the Business, Transportation and Housing Agency. The 5 members of the authority appointed by the Governor would be subject to Senate confirmation, but existing members could continue to serve the remainder of their terms. The bill would authorize the authority to appoint an executive director, and would provide for the Governor to appoint up to 6 additional individuals exempt from civil service as authority staff. The bill would require the authority to adopt policies directing the development and implementation of high-speed rail, prepare and adopt a business plan and high-speed train capital program, establish a peer review group, select alignments for the routes of the high-speed train system established by law, adopt criteria for the award of franchises, and set fares or establish guidelines for the setting of fares. The bill would enact other related provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. (a) It is the intent of the Legislature to do all of
- 2     the following:
- 3         (1) Further the transportation system of the state through the
- 4     successful development and construction of the 800-mile
- 5     high-speed train system described in Proposition 1A, approved by
- 6     the voters on November 4, 2008.
- 7         (2) Protect the state's interests and provide for the exercise of
- 8     continuing oversight of the funds to be invested in the high-speed
- 9     train project following voter approval of Proposition 1A.
- 10        (3) Ensure that an adequate public forum maintains the
- 11     transparency of the development of the high-speed train project.
- 12        (4) Provide an efficient governmental structure for the
- 13     development of high-speed train operations in the state.
- 14     (b) This act continues in existence the High-Speed Rail
- 15     Authority and places the authority within the Business,
- 16     Transportation and Housing Agency.
- 17     SEC. 2. Section 13975 of the Government Code is amended
- 18     to read:

13975. The Business and Transportation Agency in state government is hereby renamed the Business, Transportation and Housing Agency. The agency consists of the State Department of Alcoholic Beverage Control, the Department of the California Highway Patrol, the Department of Corporations, the Department of Housing and Community Development, the Department of Motor Vehicles, the Department of Real Estate, the Department of Transportation, the Department of Financial Institutions, ~~and~~ the Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun, *and the High-Speed Rail Authority*. The California Housing Finance Agency is also located within the Business, Transportation and Housing Agency, as specified in Division 31 (commencing with Section 50000) of the Health and Safety Code.

SEC. 3. Division 19.5 (commencing with Section 185000) of the Public Utilities Code is repealed.

SEC. 4. Division 19.5 (commencing with Section 185000) is added to the Public Utilities Code, to read:

**DIVISION 19.5. CALIFORNIA HIGH-SPEED RAIL ACT**

**CHAPTER 1. GENERAL PROVISIONS, FINDINGS, AND DEFINITIONS**

185000. This division shall be known, and may be cited, as the California High-Speed Rail Act.

185002. The Legislature hereby finds and declares all of the following:

(a) California, over the past decades, has built an extensive network of freeways and airports to meet the state's growing transportation needs.

(b) These facilities are not adequate to meet the mobility needs of the current population.

(c) The population of the state and the travel demands of its citizens are expected to continue to grow at a rapid rate.

(d) The cost of expanding the current network of highways and airports fully to meet current and future transportation needs is prohibitive, and a total expansion strategy would be detrimental to air quality.

(e) Intercity train service, when coordinated with urban transit and airports, is an efficient, practical, and less polluting

1 transportation mode that can fill the gap between future demand  
2 and present capacity.

3 (f) Advances in rail and train technologies have allowed intercity  
4 train systems in Europe and Japan to attain speeds of up to 220  
5 miles per hour and compete effectively with air travel for trips in  
6 the 200- to 500-mile range.

7 (g) Development of a high-speed train system is a necessary  
8 and viable alternative to automobile and air travel in the state.

9 (h) In order for the state to have a comprehensive network of  
10 high-speed intercity train systems by the year 2020, similar to  
11 California's former freeway plan, it is necessary to designate an  
12 entity with stable and predictable funding sources to implement  
13 the plan.

14 (i) Utilizing existing human and manufacturing resources to  
15 build a large network of high-speed trains will generate jobs and  
16 economic growth for today's population and produce a  
17 transportation network for future generations.

18 (j) Upon confirmation of the need and costs by detailed studies,  
19 the private sector, together with the state, can build and operate  
20 new high-speed intercity train systems utilizing private and public  
21 financing.

22 185004. As used in this division, unless the context requires  
23 otherwise, the following terms have the following meanings:

24 (a) "Authority" means the High-Speed Rail Authority. The  
25 members of the authority constitute the board of the authority.

26 (b) "High-speed train" means intercity passenger train service  
27 that utilizes an alignment and technology that makes it capable of  
28 sustained speeds of 200 miles per hour or greater.

29 (c) "Secretary" means the Secretary of Business, Transportation  
30 and Housing.

## 31 32 CHAPTER 2. THE HIGH-SPEED RAIL AUTHORITY

### 33 34 Article 1. Members of the Authority

35  
36 185110. (a) The High-Speed Rail Authority in state  
37 government is hereby continued in existence.

38 (b) (1) The authority is composed of nine members as follows:

39 (A) Five members appointed by the Governor, with the advice  
40 and consent of the Senate.

1 (B) Two members appointed by the Senate Committee on Rules.

2 (C) Two members appointed by the Speaker of the Assembly.

3 (2) For the purposes of making appointments to the authority,  
4 the Governor, the Senate Committee on Rules, and the Speaker of  
5 the Assembly shall take into consideration geographical diversity  
6 to ensure that all regions of the state are adequately represented.

7 (c) Members of the authority shall hold office for terms of four  
8 years, and until their successors are appointed. A vacancy shall be  
9 filled by the appointing power making the original appointment,  
10 by appointing a member to serve the remainder of the term.

11 (d) The term of a member shall expire on December 31 of the  
12 fourth year of the member's term.

13 (e) Members of the authority are subject to the Political Reform  
14 Act of 1974 (Title 9 (commencing with Section 81000)).

15 (f) From among its members, the authority shall elect a  
16 chairperson, who shall preside at all meetings of the authority, and  
17 a vice chairperson to preside in the absence of the chairperson.  
18 The chairperson shall serve a term of one year.

19 (g) Five members of the authority constitute a quorum for taking  
20 any action by the authority. Nothing in the foregoing shall limit  
21 any law requiring a vote of more than a simple majority for the  
22 taking of any action by the authority.

23 (h) Nothing in this section shall require the existing membership  
24 of the authority on the effective date of this section to be  
25 reconstituted as of that date.

26 185112. (a) Each member of the authority shall receive  
27 compensation of one hundred dollars (\$100) for each day that the  
28 member is attending to the business of the authority, but shall not  
29 receive more than five hundred dollars (\$500) in any calendar  
30 month.

31 (b) Members of the authority shall be reimbursed for their actual  
32 travel expenses incurred in attending to the business of the  
33 authority.

34 185114. (a) The authority shall appoint an executive director,  
35 exempt from civil service, who shall serve at the pleasure of the  
36 authority, to administer the affairs of the authority as directed by  
37 the authority.

38 (b) For purposes of managing and administering the ongoing  
39 work of the authority in implementing the high-speed train project,  
40 the Governor, upon the recommendation of the executive director,

1 may appoint up to six additional individuals, exempt from civil  
2 service, who shall serve at the pleasure of the executive director.  
3 Pursuant to this subdivision, the Governor may appoint persons  
4 only for the following positions:

- 5 (1) Chief program manager.
- 6 (2) Up to three regional directors.
- 7 (3) Chief financial officer.
- 8 (4) Director of risk management and project controls.

9 (c) The compensation of the executive director and the additional  
10 persons authorized by subdivision (b) shall be established by the  
11 authority, and approved by the Department of Personnel  
12 Administration, in an amount that is reasonably necessary, in the  
13 discretion of the authority, to attract and hold a person of superior  
14 qualifications. The authority shall cause to be conducted, through  
15 the use of independent outside advisers, a salary survey to  
16 determine the compensation for the positions under this  
17 subdivision. The Department of Personnel Administration may,  
18 in its discretion, accept a previously completed salary survey that  
19 meets the requirements of this subdivision, and shall review the  
20 methodology used in the survey. The salary survey shall consider  
21 both of the following:

- 22 (1) Other state, regional, and local transportation agencies that  
23 are most comparable to the authority and its responsibilities.
- 24 (2) Other relevant labor pools.

25 The compensation set by the authority shall not exceed the  
26 highest comparable compensation for a position of that type, as  
27 determined by the salary survey. Based on the salary survey, these  
28 positions shall be paid a salary established by the authority and  
29 approved by the Department of Personnel Administration.

30 (d) The executive director may, as authorized by the authority,  
31 appoint necessary staff to carry out the provisions of this part.

32 185117. The authority may sue or be sued.

## 34 Article 2. Policies of the Authority

35  
36 185120. The authority shall establish policies directing the  
37 development and implementation of intercity high-speed train  
38 service that is fully integrated with the state's existing intercity  
39 rail and bus network, consisting of interlinked conventional and  
40 high-speed train lines and associated feeder buses. The intercity

1 network in turn shall be fully coordinated and connected with  
2 commuter train lines and urban transit lines developed by local  
3 agencies, as well as other transit services, through the use of  
4 common station facilities whenever possible.

5 185122. (a) The authority shall establish an independent peer  
6 review group for the purpose of reviewing the planning,  
7 engineering, financing, and other elements of the authority's plans  
8 and issuing an analysis of appropriateness and accuracy of the  
9 authority's assumptions and an analysis of the viability of the  
10 authority's financing plan, including the funding plan for each  
11 corridor required pursuant to subdivision (c) of Section 2704.08  
12 of the Streets and Highways Code.

13 (b) The peer review group shall include all of the following:

14 (1) Two individuals with experience in the construction or  
15 operation of high-speed trains in Europe, Asia, or both, designated  
16 by the Treasurer.

17 (2) Two individuals, one with experience in engineering and  
18 construction of high-speed trains and one with experience in project  
19 finance, designated by the Controller.

20 (3) One representative from a financial services or financial  
21 consulting firm who shall not have been a contractor or  
22 subcontractor of the authority for the previous three years,  
23 designated by the Director of Finance.

24 (4) One representative with experience in environmental  
25 planning, designated by the secretary.

26 (5) Two expert representatives from agencies providing intercity  
27 or commuter passenger train services in California, designated by  
28 the secretary.

29 (c) The peer review group shall evaluate the authority's funding  
30 plans and prepare its independent judgment as to the feasibility  
31 and reasonableness of the plans, appropriateness of assumptions,  
32 analyses, and estimates, and any other observations or evaluations  
33 it deems necessary.

34 (d) The authority shall provide the peer review group any and  
35 all information that the peer review group may request to carry  
36 out its responsibilities.

37 (e) The peer review group shall report its findings and  
38 conclusions to the Legislature no later than 60 days after receiving  
39 the plans.

1 Article 3. Powers, Duties, and Responsibilities of the Authority

2  
3 185130. The authority has all of the following powers, duties,  
4 and responsibilities:

5 (a) The authority shall select the alignments for the routes of  
6 the high-speed train system established pursuant to Section 2704.04  
7 of the Streets and Highways Code.

8 (b) The authority shall serve as the governing body, within the  
9 meaning of Section 1245.210 of the Code of Civil Procedure, for  
10 purposes of the adoption of resolutions of necessity.

11 (c) The authority shall advise the secretary concerning  
12 high-speed rail matters.

13 (d) The authority shall adopt criteria for the award of franchises.

14 (e) The authority shall set fares or establish guidelines for the  
15 setting of fares.

16 185131. (a) The authority shall prepare, publish, adopt, and  
17 submit to the Legislature, not later than January 1, 2014, and every  
18 two years thereafter, a business plan. At least 60 days prior to the  
19 publication of the plan, the authority shall publish a draft business  
20 plan for public review and comment. The draft plan shall also be  
21 submitted to the Senate Committee on Transportation and Housing,  
22 the Assembly Committee on Transportation, the Senate Committee  
23 on Budget and Fiscal Review, and the Assembly Committee on  
24 Budget. The business plan shall identify all of the following: the  
25 type of service the authority anticipates it will develop, such as  
26 local, express, commuter, regional, or interregional; a description  
27 of the primary benefits the system will provide; a forecast of the  
28 anticipated patronage, operating and maintenance costs, and capital  
29 costs for the system; an estimate and description of the total  
30 anticipated federal, state, local, and other funds the authority  
31 intends to access to fund the construction and operation of the  
32 system; and the proposed chronology for the construction of the  
33 eligible corridors of the statewide high-speed train system. The  
34 business plan shall also include a discussion of all reasonably  
35 foreseeable risks the project may encounter, including, but not  
36 limited to, risks associated with the project's finances, patronage,  
37 right-of-way acquisition, environmental clearances, construction,  
38 equipment, and technology, and other risks associated with the  
39 project's development. The plan shall describe the authority's



1 strategies, processes, or other actions it intends to utilize to manage  
2 those risks.

3 (b) (1) In addition to the requirements of subdivision (a), the  
4 business plan shall include, but need not be limited to, all of the  
5 following elements:

6 (A) Using the most recent patronage forecast for the system,  
7 develop a forecast of the expected patronage and service levels  
8 for the Phase 1 corridor as identified in paragraph (2) of subdivision  
9 (b) of Section 2704.04 of the Streets and Highways Code and by  
10 each segment or combination of segments for which a project-level  
11 environmental analysis is being prepared for Phase 1. The forecast  
12 shall assume a high, medium, and low level of patronage and a  
13 realistic operating planning scenario for each level of service.  
14 Alternative fare structures shall be considered when determining  
15 the level of patronage.

16 (B) Based on the patronage forecast in subparagraph (A),  
17 develop alternative financial pro formas for the different levels of  
18 service, and identify the operating break-even points for each  
19 alternative. Each pro forma shall assume the terms of subparagraph  
20 (J) of paragraph (2) of subdivision (c) of Section 2704.08 of the  
21 Streets and Highways Code.

22 (C) Identify the expected schedule for completing environmental  
23 review, and initiating and completing construction for each segment  
24 of Phase 1.

25 (D) Identify the source of federal, state, and local funds available  
26 for the project that will augment funds from the bond act and the  
27 level of confidence for obtaining each type of funding.

28 (E) Identify written agreements with public or private entities  
29 to fund components of the high-speed rail system, including  
30 stations and terminals, any impediments to the completion of the  
31 system, such as the inability to gain access to existing railroad  
32 rights-of-way.

33 (F) Identify alternative public-private development strategies  
34 for the implementation of Phase 1.

35 (2) To the extent feasible, the business plan should draw upon  
36 information and material developed according to other  
37 requirements, including, but not limited to, the preappropriation  
38 review process and the preexpenditure review process in the Safe,  
39 Reliable High-Speed Passenger Train Bond Act for the 21st  
40 Century pursuant to Section 2704.08 of the Streets and Highways

1 Code. The authority shall hold at least one public hearing on the  
2 business plan and shall adopt the plan at a regularly scheduled  
3 meeting. When adopting the plan, the authority shall take into  
4 consideration comments from the public hearing and written  
5 comments that it receives in that regard, and any hearings that the  
6 Legislature may hold prior to adoption of the plan.

7 185132. The authority shall hold at least one public hearing  
8 on the business plan. The authority shall adopt the plan at a  
9 regularly scheduled meeting. When reviewing and adopting the  
10 plan, the authority shall take into consideration comments from  
11 the public at the public hearing, written comments that it receives  
12 in that regard, and comments from any hearings that the Legislature  
13 may hold prior to adoption by the authority.

14 185133. (a) The authority shall prepare, publish, and adopt,  
15 and subsequently submit to the Legislature and the Governor, not  
16 later than November 1 of each even-numbered year, a high-speed  
17 train capital program. The program shall cover a period of six  
18 fiscal years, beginning July 1 of the year following the year it is  
19 submitted, and shall be a statement of intent by the authority to  
20 request funding in the annual Budget Act for the following six  
21 years. The program shall be submitted pursuant to this section  
22 notwithstanding Section 10231.5 of the Government Code.

23 (b) The high-speed train capital program shall include a listing  
24 of all capital improvement projects that are expected to require  
25 appropriation in the annual Budget Act, including state, federal,  
26 local, and private funds, during the following six fiscal years.

27 (c) For each segment, the program shall specify the expenditure  
28 amount and the expenditure year for each of the following project  
29 components:

- 30 (1) Completion of all permits and environmental studies.
- 31 (2) Preparation of plans, specifications, and estimates.
- 32 (3) The acquisition of rights-of-way, including, but not limited  
33 to, support activities.
- 34 (4) Construction and construction management and engineering,  
35 including surveys and inspection.
- 36 (5) Any additional components the authority may deem  
37 appropriate.

38 185134. The authority shall hold at least one public hearing  
39 on the high-speed train capital program. The authority shall adopt  
40 the program at a regularly scheduled meeting. When reviewing

1 and adopting the program, the authority shall take into  
2 consideration comments from the public at the public hearing and  
3 written comments that it receives in that regard.

4  
5 CHAPTER 3. LEGAL MATTERS  
6

7 185300. Any legal or equitable action brought against the  
8 authority shall be brought in a court of competent jurisdiction in  
9 the County of Sacramento. For purposes of this section, subdivision  
10 (1) of Section 401 of the Code of Civil Procedure does not apply.

O